

Assembly Bill 2857

Firefighters' Part-Time Peace Officer Status

Authors – Assembly Members Karen Bass (D-47) and Jackie Goldberg (D-45)

ISSUE

California's firefighters must be allowed to enforce fire prevention or fire suppression laws in order to protect the public's safety, as well as themselves, in the course of performing their job-related duties and mitigating the effect(s) of an emergency.

In 1995, the Court of Appeal of California, Third Appellate District, in *Gauthier v. City of Red Bluff*, construed Penal Code Section 830.37 (b) to mean "...a person who does not have the primary duty of law enforcement cannot be a "peace officer...", thus eliminating any part-time peace officer classification. Consequently, firefighters were stripped of the ability to exercise any peace officer powers to enforce laws relating to fire prevention or fire suppression.

EXISTING LAW

In Penal Code Section 830.37 (b), a firefighter's part-time peace officer status is established as that of a firefighter acting as a peace officer, when "...the primary duty...is the enforcement of laws relating to fire prevention or fire suppression."

THIS BILL

A firefighter must be afforded the necessary tool of exercising the powers of a peace officer at the moment that their duty requires him or her to enforce such laws. As such, AB 2857 restores the part-time peace officer status to firefighting personnel who are not members of an arson-investigating unit – a status that has become unclear as a result of the 1995 *Gauthier v. City of Red Bluff* decision.

SUMMARY

This bill would:

- Restore the part-time peace officer status to firefighting personnel who are not members of an arson-investigating unit - a status that has become unclear as a result of the 1995 *Gauthier v. City of Red Bluff* decision.

FAQs

Q: *In what specific situations would a firefighter be requested to exercise "peace officer" powers in the course of his or her regular duties?*

A: Rescuing or ordering people from a burning building who might otherwise refuse to evacuate; directing traffic around the scene of an emergency to prevent, for example, the fire hose(s) from being run over or to enforce related vehicle code violations at an emergency site; ordering a vehicle that is parked too close or in front of a fire hydrant to be towed; breaking windows as needed to gain access, ordering the cessation of unsafe practices when performing business inspections, such as a restaurant kitchen that has incurred a grease fire, but has not yet restored its built-in fire protection; or ordering people to vacate an overcrowded public venue.

Q: *Does this bill authorize firefighters to carry a firearm, other than arson investigators or other firefighters already statutorily authorized to carry a firearm?*

A: No. The statute would have to expressly authorize firefighters to carry a firearm and this bill does not propose such a statutory change.

Q: *Does this bill confer a peace officer status on firefighters that was not extended to them before?*

A: No. Firefighters have always been classified as peace officers. It is only since the *Gauthier v. City of Red Bluff* decision, which applied specifically to a fire chief, that it became unclear as to which firefighting personnel would or would not be considered a peace officer. Consequently, it is only prudent that we make it clear that firefighters have a limited peace officer role when performing their job-related duties and mitigating the effect(s) of an emergency.

BACKGROUND

When enacting Penal Code Section 830.37 (a) and (b) and its predecessor, Section 830.31 (a), the Legislature intended to deem members of an arson-investigating unit of a fire department as full-time peace officers, and the remaining firefighters as part-time peace officers.

SUPPORT

California Professional Firefighters
(Sponsor)

OPPOSITION

None on file.

STATUS

Referred to the Assembly Public Safety Committee – awaiting a hearing date.

FOR MORE INFORMATION

Contact:

Nathaniel Macedon, Legislative Assistant
Assemblywoman Karen Bass
916.319.2047

Christy Bouma, Governmental Advocate
California Professional Firefighters
916.921.9111